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12 has prescribed a need for additional
13 evidence to be retrieved from the home.
14 After the defense inspection has been
15 completed, large samples of gypsum
16 board from various locations will be
17 removed for sampling of fungal growth.
18 Q. But you say this in every report.
19 A. Right. If the air samples come back,
20 then yes, I believe that we should go
21 back and take bulk samples from that
22 material to identify that the mold
23 growth is occurring within that gypsum

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1 board and where it's --
2 Q. But you first started doing invasive
3 testing only after the Byrd and
4 Daugherty cases, when we did invasive
5 testing. You've never actually done
6 this prior to that case; correct?
7 A. For the Beasley firm?
8 Q. Yeah.
9 A. Again, as I stated here, that --
10 Q. Have you or haven't you?
11 A. No, because I wasn't alerted as to when
12 you're testing or when the defendants'
13 testing was done. That's why some of
14 it was done rather -- some of the homes
15 that I've done were done very quickly
16 because I had just found out that the

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17 defense was finished. So that was my
18 intent from the beginning as to --
19 Q. To render a report, then let us study
20 it, and then go back and create new
21 evidence after the fact? That was your
22 intent?
23 A. No. My intent was that I didn't want

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1 to go out there and start cutting open
2 walls and give you an excuse to --
3 Q. To do the same thing and have an equal
4 testing opportunity?
5 A. Can I finish my answer?
6 Q. Sure.
7 A. Because I didn't want to go out there
8 and do destructive testing like this
9 and then have you say that you couldn't
10 run other types of tests because I've
11 caused some kind of degradation to the
12 envelope of the home or to the walls of
13 the home by cutting holes in it. So I
14 wanted to give my -- my thought pattern
15 and my advice was to give you
16 opportunity, or the defense in whatever
17 case, the opportunity to inspect the
18 home in the same manner that I did and
19 then afterwards go back or -- it could
20 have been done at the same time, but I
21 wasn't aware of when your inspections

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22 were done.

23 Q. Mr. Parks, true or not true? Prior to

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1 the Byrd and Daugherty homes where you
2 first was introduced to our form of
3 invasive testing, you never did
4 anything like that in any of the --

5 A. That's false. I've done that in many
6 homes in the past where --

7 Q. In any of the Beasley cases.

8 A. I don't recall if that was the first
9 one or not. But your -- your cutting
10 into the wall had absolutely nothing to
11 do with why I did that.

12 Q. Well, why did you wait until after we
13 went to the expense of flying three
14 experts in to look at this house to
15 render new opinions? That's what I'm
16 trying to get at.

17 A. My -- my rendering of opinions and when
18 I did my report has absolutely nothing
19 to do with you or your experts or what
20 you decide to do. I have -- I have no
21 opinion, knowledge -- you're not a
22 concern for me. My issue, my concern,
23 is to substantiate my beliefs and my

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1 opinions in this case.

2 Now, my reason for not doing
3 this on the initial visit, as I just
4 stated, is I didn't want to alter the
5 structure on the house that would cause
6 you an inability to do some kind of
7 other testing that you wanted to do.
8 That's why I recommended that we do as
9 minimally invasive testing as
10 absolutely possible until after you
11 have your opportunity or the defense in
12 any case has their opportunity to do
13 their full realm of testing. When
14 they're finished, then we could go back
15 and do more invasive work. That was my
16 recommendation from day one, and it has
17 nothing to do with you or you flying in
18 three experts or anything else.

19 Q. Well, why didn't you invite us out
20 there to be present when you were doing
21 yours?

22 A. That wasn't my job or my decision.

23 My -- my request was to have an

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1 opportunity to go back when y'all were
2 finished -- or it could have been at
3 the same time; I really don't care --
4 but the opportunity to take these bulk

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5 samples after you've done any other
6 testing that you wish to do that that
7 invasive testing might interfere with.
8 Q. Well, you understand, though, that when
9 we go out there, we want to have your
10 report with us; right?
11 A. What you want is completely irrelevant
12 to me. I'm not an attorney. I don't
13 know the protocol. And frankly, I
14 don't care. My -- my job is to render
15 an opinion as to whether these homes
16 are -- the walls have elevated moisture
17 and then to offer opinions and evidence
18 to substantiate that.
19 Q. How many other Beasley houses have you
20 actually done this kind of invasive
21 testing on? Give me the names of the
22 cases and the dates of the testing.
23 A. I can't give you all of those. I don't

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1 know them right off the top of my head.
2 But I know that I've done it in --
3 Q. A Fleetwood case.
4 A. Now, you mentioned the Byrd and
5 Daugherty case. I didn't do this kind
6 of testing in that.
7 Q. That's my point. I don't see any
8 evidence in any Beasley case from any
9 defendant where you've done this kind

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10 of prior than October of 2007.

11 A. Wow. So you're reviewing every case
12 for every defendant, not just Southern
13 Energy?

14 Q. You've got a lot of reports out there.

15 A. Well, I'm glad y'all are working
16 together like that. Herron, Moore;
17 those are Palm Harbors.

18 Q. When did you do those?

19 A. I don't remember the specific dates.

20 Q. I mean, the last thirty --

21 MR. GOULD: It would have
22 been a little bit after
23 Murphy.

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1 THE WITNESS: It was a
2 little bit after Murphy?

3 MR. GOULD: I mean, not
4 after Murphy. I think
5 it was after the
6 Southern Energy --

7 THE WITNESS: Yeah, it was
8 after the Southern
9 Energy.

10 MR. GOULD: -- arbitration
11 hearing.

12 Q. (BY MR. SIMPSON) Here's what I'm trying
13 to get at: You've never done this kind
14 of invasive testing in a Beasley case

15 prior to, say, September '07? 982parks.rough depo.txt

16 A. I don't recall. But I don't think I
17 have because I wasn't alerted that the
18 defense -- that -- that the opportunity
19 was there, that it was time for me to
20 go back and do it. I can say
21 definitively it had absolutely nothing
22 to do with you or the Daugherty case.

23 Q. Well, here's my point: In Byrd and

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1 Daugherty, you rendered a report
2 indicating that there was some level of
3 mold in the ambient air in the wall
4 cavity; correct?

5 A. That's correct. And in that case, I
6 was also able to peel off a large piece
7 of the wallboard on the inside that
8 gave very --

9 Q. In one home.

10 A. -- visible -- right. Well, we're
11 talking about that.

12 Q. But here's my point. You've never gone
13 back in any other case we've handled or
14 any other manufacturing case that I'm
15 aware of prior to this past month where
16 you've actually gone back and done more
17 testing after the defense was given its
18 opportunity.

19 A. If -- and that would only be because

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20 I've not been given a list of homes
21 that those reports have been rendered
22 on and that -- that -- that I'm offered
23 that opportunity to. But --

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1 Q. But you would agree with me that prior
2 to, say, last month, this just isn't
3 something that you've ever done for
4 Beasley.
5 A. And you're saying for Beasley. And no,
6 because I wasn't notified that the
7 defense --
8 Q. I don't care the reason. I just want
9 to know --
10 A. No.
11 Q. -- yes or no.
12 A. You just want me to say no so you can
13 copy it and paste it out of a
14 deposition and make it look like
15 something it's not. And the bottom
16 line --
17 Q. I just want to know yes or -- you don't
18 have to argue with me. I just want to
19 know yes or no prior to last month,
20 you've never done this kind of testing
21 in any other case for the Beasley firm.
22 A. No, because I have not been notified
23 that the defense was finished with

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- 1 their investigation.
- 2 Q. So the answer is no.
- 3 A. Because -- because I've not been
- 4 notified that it was the time.
- 5 Q. Now, if you were defending a case like
- 6 this, hypothetically speaking, what
- 7 would you think would be a reasonable
- 8 reinspection -- what protocols would
- 9 you undertake to verify someone like
- 10 your data was accurate or inaccurate?
- 11 A. I don't think I would take -- I don't
- 12 see a defense for this.
- 13 Q. Well, let me ask you this. If you
- 14 wanted to make sure that your samples
- 15 were accurate, would it be fair for us
- 16 to go in an adjoining piece and pull a
- 17 sample off as well?
- 18 A. Same wall --
- 19 MR. GOULD: When you say
- 20 adjoining piece --
- 21 Q. I mean, does it have to connect to your
- 22 square? How close does it have to be?
- 23 A. I think if you stay in a wall cavity,

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- 1 you -- to get an accurate reading, not
- 2 to try to lend it to, you know, to
- 3 discrepancies, you would want to stay
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4 in the same wall cavity and stay in a
5 general vicinity of the same -- same
6 area.

7 Q. When you cut these pieces off, you
8 chose the areas that you thought were
9 the highest concentration of mold.

10 A. Absolutely not. These -- these --
11 these areas were completely random.

12 Q. Completely random?

13 A. Completely random. As a matter of
14 fact, two of the areas that I cut wound
15 up being in closet areas and came back
16 with no mold detected at all because
17 those closet areas don't have air-
18 conditioning vents in them and stay
19 considerably warmer.

20 Q. Well, tell me, where is your protocol
21 for the random removal of samples? Do
22 you have one?

23 A. I did not establish a protocol for

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1 taking -- I don't have a written
2 protocol for this. It is simply -- I
3 never even went inside of the home
4 during the third visit when I took the
5 bulk samples. I simply stayed in areas
6 that were well away from corners,
7 windows, doors, anything that -- TV
8 antennas, anything else that you might

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9 want to try to blame it on, open areas;
10 moved a piece of siding that was
11 available and completely random cutting
12 out those samples.

13 Q. Why did you take two samples in
14 Bedroom 3?

15 A. Oh, on that corner?

16 Q. Yeah.

17 A. As I -- when I cut the first one out,
18 after I'd already marked it and located
19 it, I noticed down below it there was
20 an area where apparently you had opened
21 it up and looked at it but chose not
22 the take a sample, that I'm aware of,
23 anyway. I've not seen any reports from

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1 your side. So --

2 Q. You didn't see any samples. We didn't
3 peel any paper that you could see.

4 A. No. No. I never saw any -- any bulk
5 samples taken.

6 Q. I'll represent to you we didn't do that
7 because we didn't see that you had done
8 that.

9 A. Oh, so you only want a sample if I do
10 it, huh?

11 Q. Well, I mean, our protocol is to
12 analyze your report. And you didn't do
13 that, any kind of sampling, so we

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14 didn't do it either. So I'm just
15 wondering why you did two in Bedroom 3.
16 A. Well, I was getting to that before you
17 interrupted me.
18 Q. Please continue, Mr. Parks. I don't
19 want to interrupt you.
20 A. I would appreciate that. As I cut
21 Sample 5, I noticed down below me there
22 was some tape sticking up. So I looked
23 down there and there was an area that

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1 you had opened up or your experts, or
2 whoever, and I noticed there didn't
3 appear to be any bulk samples there.
4 And not -- not knowing, I thought that
5 would be an excellent place to open up
6 and test.
7 Q. So which number, five or six, in your
8 judgment, is the area you think we
9 looked at?
10 A. Six. I believe it was area -- well,
11 wait a minute. Let me look at that
12 because I may be -- can I see that
13 report, please?
14 Q. Sure.
15 A. Or is that my -- yeah, that's my color
16 copy. Yes. Area 6 is the one that I
17 found that was opened up and taped back
18 closed.

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- 19 Q. why did you take two samples in
20 Bedroom 2?
21 A. I'm sorry?
22 Q. Bedroom 2 has two samples, three and
23 four.

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- 1 A. I took one -- the -- on the back side
2 of the house, there is an awning across
3 the back. Because I felt like I wanted
4 to take one from under the awning and
5 one that was not under the awning to
6 eliminate a consistency of the awning
7 causing a water leak scenario. As I
8 said, I never walked inside of the
9 house. That's why I wasn't aware that
10 there was an actual closet there where
11 I took the second one from wall
12 cavity 2, but I was simply taking one
13 from that end of the house.
14 Q. why did you take one in Bathroom 2?
15 A. Again, I did not know that that was the
16 bathroom that I was taking one behind.
17 I stayed between -- if you look at the
18 pictures from the front of the house, I
19 stayed as close to the center of the
20 windows as I could find to stay away
21 from the windows.
22 Q. why do you stay away from windows?
23 A. well, because that would be an excuse

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- 1 that you would have to say, Oh, it's a
2 water leak and not a condensation
3 problem.
- 4 Q. And why did you take sample 8, which is
5 the kitchen?
- 6 A. Again, I decided to take eight samples
7 from around the house. And, again, I
8 stayed between the windows, away from
9 anything that I felt like that you
10 would possibly blame it on as a water
11 leak.
- 12 Q. Master bath, you took two samples why?
- 13 A. Again, those were random areas. Now,
14 on the left side, the -- on the -- I
15 think that's the master bedroom side,
16 if I could see that again. There are
17 multiple windows right there on the
18 corner of the house, and I didn't want
19 to sample it there because that would
20 have been another area that I felt like
21 you would write off as a water leak
22 area. So, again, I stayed away from
23 the windows.

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- 1 Q. well, half of the samples -- wouldn't

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2 you agree? -- are in rooms where
3 there's water, two bathrooms and a
4 kitchen?
5 A. No. I would -- well, actually, the one
6 in the kitchen came back clean. There
7 was no problem with that one.
8 Q. But there's water in all three of those
9 rooms. Half your samples are in rooms
10 where there's --
11 A. No, not half the samples.
12 Q. Well, there's eight.
13 A. Yes.
14 Q. And I'm counting one, two, three, four.
15 A. Okay. Well, I would agree yes, there's
16 water in the room. But we have a vapor
17 barrier of less than one perm on that
18 living side, so the water in the room
19 doesn't affect the wall cavity.
20 Q. All right. So you would agree with me
21 that whatever mold contamination you
22 claim to exist in the wall cavity has
23 nothing to do with the presence or

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1 absence of mold in the indoor air?
2 A. Oh, can you say that again, please?
3 Q. Yeah. Would you agree with me -- you
4 just said that the water can't go
5 through there, and I'm just --
6 A. Correct.

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7 Q. -- trying to also establish that the
8 mold can't get through there, either.
9 A. To the living side of the house?
10 Q. Yes.
11 A. I think it's very much restricted
12 unless you have some kind of negative
13 pressure that's causing an air flow
14 inward through electrical outlets and
15 stuff like that. But as I also stated,
16 I've not tested any air samples from
17 inside the house. That was never part
18 of my instructions.
19 Q. Would it be reasonable for a person who
20 sat through your second inspection to
21 load up the family and move out?
22 A. I can't -- I can't tell you what
23 their -- their thought patterns were.

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1 Q. I didn't ask you that. I just wondered
2 in your professional scientific
3 judgment, was there any evidence
4 available during the second visit that
5 you think was -- formed a reasonable
6 basis for someone moving out?
7 A. I can only tell you that I would not
8 recommend -- I would not have and have
9 not ever told a client that I would
10 move out of this house because of what
11 I saw within the wall cavities. That I

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12 can recall, I've never said that to
13 anyone.

14 Q. So if Ms. Murphy had asked you that the
15 day you were out there and showed her
16 these pictures, you would have told
17 her, hypothetically speaking, not to
18 move out because you have no evidence
19 that the indoor air quality is poor?

20 A. I would not have stated it that way.
21 what I would have told her is that I'm
22 not testing indoor air quality but
23 based on my experience, the same issue

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1 that's causing the moisture to
2 accumulate the wall is also, in a
3 sense, protecting the inside
4 environment, because just as the
5 moisture cannot diffuse through, you've
6 built a barrier there that really
7 limits what's going on in the wall
8 cavity to the exposing of the inside
9 air. So I would have tried, if
10 anything -- and that's -- I'm not
11 saying I told that to her. I'm just
12 saying in general when I speak to
13 someone about this issue, that's what
14 I -- that's what my explanation is. If
15 anything, I try not to alarm people.
16 Q. So fair to say on your second visit

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17 there was no reason for alarm for
18 purposes of indoor air quality?
19 A. I didn't test indoor air quality, so I
20 really can't render an opinion as to
21 that.
22 Q. Well, what I'm saying is, you had no
23 evidence that there was any cause for

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1 alarm for indoor air quality on your
2 first, second, or third visit.
3 A. You said I had no evidence. That's
4 correct, because I did not test for it.
5 Q. In terms of setup, are there any setup
6 issues with this house that are causing
7 water or potential mold communication
8 into the walls?
9 A. I believe Mr. Bonney is going to speak
10 to setup-related issues. But as they
11 pertain to moisture problems, I really
12 didn't see anything that was out of the
13 ordinary that's going to contribute to
14 the problem that I see in the walls.
15 Now, could it contribute to other
16 problems such as underneath the house,
17 possible floor problems, stuff like
18 that, yes, but not to the wall problem,
19 no, sir.
20 Q. But you testified a little while ago
21 you've never even read his report, so

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22 you don't know sitting here right now
23 whether any setup issues contributed or

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1 didn't contribute to wall or -- water
2 in the wall or mold in the wall?
3 A. You're -- I can give you my opinion
4 that no, they did not. And I've not
5 read Mr. Bonney's report, nor do I need
6 to. Mr. Bonney's report, as I
7 understand it, typically do not address
8 what does or does not cause moisture
9 problems other than maybe something
10 that he's familiar with. My opinions
11 are on the wall cavities. The setup
12 issues or lack of in this house or how
13 it's set up is a little unusual, but I
14 do not believe that they are
15 contributing to why this problem is
16 occurring in the wall. The reason the
17 problems are occurring in the wall is
18 because we have a continuous vapor
19 barrier on the wrong side.
20 Q. Did you go on the roof?
21 A. Did I go on the roof? No, sir, I did
22 not.
23 Q. Did you go under the house?

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- 1 A. I didn't crawl. I looked under, but I
2 didn't crawl under, to the extent that
3 Mr. Bonney did, anyway.
- 4 Q. And you would agree that this is an
5 unorthodox setup?
- 6 A. I wouldn't say "unorthodox." No, I
7 wouldn't use that word. I'd say it's
8 unusual.
- 9 Q. What's unusual about it?
- 10 A. Well, typically, you don't have the
11 formation, the levels not brought up
12 around the front. However, the back is
13 left open.
- 14 Q. This has dirt all the way up to the
15 edges of the building and cross-ties
16 all the way around on three sides.
- 17 A. Correct. Correct.
- 18 Q. And that's -- well, I've been doing
19 this a long time. I've never seen
20 that. Have you ever seen another home
21 like that?
- 22 A. I've seen many homes set up similar to
23 that.

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- 1 Q. With dirt all the way up to the edge of
2 the walls?
- 3 A. I've seen them brought up to -- I think
4 there are a couple cinder blocks or
5 maybe one cinder block. It's not

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- 6 brought all the way up to the wall
7 structure itself. There's a block
8 under it. But it is brought up very
9 high around the perimeter and then
10 there's cross-ties sitting around that.
11 But yes, I mean, I've seen them where
12 they -- I've seen all kind of setups
13 where they actually dig basements
14 underneath them into the ground to --
15 Q. Do you know whether this setup violates
16 the installation?
17 A. I have not reviewed the installation
18 manual, and that's not part of my job
19 description.
20 Q. Fair to say it's not your job to rule
21 out setup-related issues to moisture?
22 A. Yes, sir, it is. My job is, well, to
23 is field and render opinions on what is

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- 1 affecting the wall structure of this
2 home and the moisture-related issues in
3 the wall structure.
4 Q. But you didn't crawl under the house?
5 A. Yes, I did, but not to the extent that
6 Mr. Bonney did.
7 Q. Well, what extent did you do it?
8 A. I went in to the edge to look for
9 bottom boards being torn and, you know,
10 degradation, you know, big stuff like

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11 that that would continue contribute to
12 really more floor problems than -- but
13 I didn't have any floor problems in
14 this house that I noted.

15 Q. Did you remove the trellis that --

16 A. No.

17 Q. -- keeps you from going underneath the
18 home?

19 A. Under the -- I went under the porch.

20 Q. The back porch or front porch?

21 A. The back porch. The front porch is a
22 concrete slab.

23 Q. Was there a trellis material blocking

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1 your way?

2 A. I don't recall specifically. That's
3 been over a year ago, year and a half
4 ago.

5 Q. Did you take any pictures?

6 A. Not from underneath the home, I don't
7 believe, no, sir.

8 Q. Did you look for a torn belly?

9 A. Yes, but I didn't note anything
10 significant at that time.

11 Q. So you don't know sitting here today if
12 there's any tears in the belly?

13 A. And even if there was tears in the
14 belly, I wouldn't contribute that to
15 what's happening in the perimeter wall